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SINGLE BENCH
C.S. 100

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IN THE HIGH COURT OF JUDICATURE AT BILAPUR

WRIT PETITION NO. 4242 of 2005

PETITIONER: Smt. Savitri Bai, W/o Balram Jharia, Aged about 29 years, R/o Gram Panchayat Samnapur, Block Development Kawardha, Tehsil & District **Kabirdham** (C.G.).

VERSUS

RESPONDENTS:

1. Election Officer/Presiding Authority, Gram Panchayat Samnapur, Block Development Kawardha, Tehsil & District **Kabirdham** (C.G.).
2. Santosh Patel, S/o Shri Premlal, Elected Sarpanch, Gram Panchayat Samnapur, Block Development Kawardha, Tehsil & District **Kabirdham** (C.G.).
3. Premlal Patel, S/o Bihari Lal, Aged about 45 years, Elected Panch.
4. Dilip Patel, S/o Raghunath Patel, Aged about 19 years, Elected Panch.
5. Bohara Bai Patel, W/o Dhiraji Patel, Aged about 45 years, Elected Panch.
6. Sidhram Patel, W/o Gokul Patel, Aged about 40 years, Elected Panch.
7. Shyamchandra Patel, S/o Vishnu Aged about 35 years, Elected Panch.
8. Anau, S/o Jethu Patel, Aged about 50 years, Elected Panch.
9. Laxmin, W/o Jaysingh, Aged about 57 years, Elected Panch.
10. Chamru, S/o Raruha Patel, Aged about 55 years, Elected Panch.

P.R. No. 4378/05
Presented by Shri R.K. Tiwari
dated 29/8/05

29.8.05

आयुक्त, बिलासपुर संभाग बिलासपुर तहसील कार्यालय

11. Khorjharin Bai, W/o Bisahu Das Manikpuri, Aged about 60 years, Elected Panch.

12. Bhuwan, S/o Bhaghel, Aged about 50 years, Elected Panch.

13. Sukli Bai, W/o Shiv Dhurve, Aged about 31 years, Elected Panch.

(Respondents No. 3 to 13 : R/o. Gram Panchayat Samnapur, Block Development Kawardha, Tehsil & District **Kabirdham** (C.G.).)

14. Melan Kumar, S/o Dhuleshwar Jaiswal, Aged about 27 years, Elected Panch.

15. Kajla, W/o Hanli Jaiswal, Aged about 40 years, Elected Panch.

16. Ramkali, W/o Ramji Jaiswal, Aged about 28 years, Elected Panch.

17. Bisnath, S/o Tijau Patel, Aged about 35 years, Elected Panch.

18. Rajendra, S/o Bagela, Aged about 38 years, Elected Panch.

19. Budhari, S/o Loku Patel, Aged about 30 years.

Respondents No. 14 to 19 : R/o. Village Motiyari, Gram Panchayat Samnapur, Block ~~Development~~ Kawardha, Tehsil & District **Kabirdham** (C.G.).

20. Sub Divisional Officer (EI), **Kawardha** (CG).

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

... submits as under:-

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक W.P. 4242 **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

14/11/2005

Shri Dinesh R.K.Tiwari, learned counsel for the petitioner.

Heard on admission.

The petitioner has filed the instant petition under Article 226/227 of the Constitution of India against the order of Annexure P/2 dated 21.07.2005 and by which a declaration was sought to the effect that the election held for Gram Sabha, Samnapur be declared against the law and void.

Learned counsel for the petitioner submits that it is true that the election petition as presented by the petitioner before the Election Petition Tribunal (hereinafter referred to as 'the Tribunal') was not maintainable in the form it was presented, however, the impugned order has been passed by the Tribunal without affording an opportunity of hearing to the petitioner and further without affording any opportunity to the petitioner to amend the petition and thus for the above reasons, the impugned order is passed against the principle of natural justice and it deserves to be quashed.

Learned counsel for the petitioner further submits that the grievance of the petitioner before the Tribunal was that Gram Sabha of the concerned Panchayat passed a resolution in the meeting of Gram Sabha dated 25.11.2004 resolving that the Panchayat should not be declared reserved Panchayat as no person of the Scheduled Caste resides in that territory. This resolution was contrary to law and on the basis of this resolution; the reservation of the Gram Panchayat was amended. The prayer of the petitioner in the election petition was that the said Gram

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक (पूर्वानुबद्ध)

का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Panchayat should be declared reserved and the election conducted for the Panchayat should be declared void.

The learned Tribunal has rejected the election petition on the ground that the reservation of a particular Panchayat does not fall within the domain of election petition and the Tribunal has no jurisdiction to adjudicate such dispute.

After hearing learned counsel for the petitioner, I am of the opinion that the prayer made by the petitioner in the instant petition and the grounds raised in the election petition do not constitute any of the grounds enumerated in Section 21 of the Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules 1995 and as such no interference is called for in the exercise of writ jurisdiction and accordingly, the instant petition is dismissed.

Sd/-
Dhirendra Mishra
Judge

SP/FS/2(